IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

Criminal Revision No. 792 of 1994

Date of decision : July 18, 2007

Manjit Singh and others

... Petitioners

versus

State of Punjab

... Respondent

Coram: Hon'ble Mr. Justice A.N. Jindal.

Present: Mr. A.S. Virk, Advocate
for the petitioners.

Mr. Anter Singh Brar, DAG, Punjab
for the respondent.

A.N. Jindal, J

Accused-petitioners Manjit Singh, Mehal Singh and Ajmer Singh (hereinafter referred to as 'the petitioners') have filed the present petition against the judgment dated 17.11.1994 passed by the learned Additional Sessions Judge, Amritsar, dismissing the appeal of the petitioners against the judgment dated 16.8.1994 passed by the learned Sub Divisional Judicial Magistrate, Taran Taran, convicting the petitioners under Sections 326, 324, 323 read with Section 34 IPC and sentencing them as under :-

Manjit Singh

U/s 326 IPC : To undergo rigorous imprisonment for two years and to pay fine of Rs.1,000/-. In default of payment of fine to further undergo rigorous imprisonment for three months.

U/s 324 IPC : To undergo rigorous imprisonment for one year.

Mehal Singh and Ajmer Singh

U/s 326/34 IPC : To undergo rigorous imprisonment for two years and to pay fine of Rs.1,000/- each. In

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		default of payment of fine to further undergo rigorous imprisonment for three months each.
324/34 IPC	:	To undergo rigorous imprisonment for one year each.
U/s 323 IPC	:	To undergo rigorous imprisonment for six months each.
Ajmer Singh		
U/s 323 IPC	:	To undergo rigorous imprisonment for six months.

The facts of the case, as unfolded by the prosecution during trial, are that Karaj Singh-complainant (hereinafter referred to as 'the complainant') was working in Government Primary School, Sarai Diwana whereas his wife Palwinder Kaur was working in Shahid Udham Singh Public School, Manochahal. On 30.7.1992, at about 1.15 PM, when Karaj Singh and his wife were returning to their house and when they reached in front of their house, they saw Gian Kaur standing in the street. On seeing the complainant and his wife, she exhorted that Karaj Singh and his wife had come and they be finished. In the meanwhile, Mehal Singh and Ajmer Singh armed with dangs and Manjit Singh armed with taqua arrived at the spot. Manjit Singh inflicted taqua blow on the right hand of the complainant and Mehal Singh inflicted dang blow on his head. Consequently, he fell down, thereafter, Ajmer Singh inflicted dang blow on his back. Manjit Singh also inflicted taqua blow hitting on the head of Palwinder Kaur, Mehal Singh inflicted dang blow hitting on her head and Ajmer Singh also inflicted dang blows on her person. Hue and cry raised by them attracted Gurdev Singh and Baljit Singh, at which, petitioners fled away from the spot. The injured were removed to the hospital where they were medically examined. On the statement of the complainant Ex.PC recorded on 31.7.1992 by SI Balbir Singh, a case was registered against the petitioners. SI Balbir Singh collected the medicolegal reports; lifted the blood stained earth; took into possession blood stained clothes of the injured; prepared the rough site plan; recorded statements of the witnesses

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and on completion of the investigation challan against the petitioners was presented in the Court.

Formal charge under Sections 326,324,323,34 IPC was framed to which the petitioners pleaded not guilty and claimed trial.

During trial, the prosecution examined Dr. Kashmir Singh (PW1), Karaj Singh complainant (PW2), Palwinder Kaur injured (PW3), SI Balbir Singh (PW4), HC Randhir Singh (PW5) and closed its evidence.

In their statements recorded under Section 313 Cr.P.C. the petitioners denied all the incriminating circumstances appearing against them and pleaded their false implication in the case.

In defence, the petitioners examined Gurnam Singh (DW1).

The trial ended in conviction and the appeal was also dismissed by the learned Additional Sessions Judge, Amritsar. Hence this revision petition.

I have heard Mr. A.S. Virk, learned counsel for the petitioners, Mr. Anter Singh Brar, learned Deputy Advocate General, Punjab and perused the records of this case with their able assistance.

There are six injuries on the person of Palwinder Kaur and 13 injuries on the person of the complainant. They were medico-legally examined on 30.7.1992 at 3.30 PM. Both the injured were declared unfit to make the statements at 8.30 PM, that is why, statement of the complainant Ex.PC was recorded on the next day i.e. 31.7.1992. There was no previous enmity between the complainant and the petitioners, as such, there was no reason for the complainant to replace them by the real culprits. Consequently, delay in lodging the FIR being fully explained is not fatal to the prosecution case. The time, place and the manner in which the occurrence had taken place, has been fully proved by the injured eye witnesses which stand corroborated by the medical evidence. Despite the scorching cross examination upon the injured eye witnesses, no such defect or infirmity could be elicited which could be treated as sufficient to impeach their veracity.

The injuries on the person of the complainant Karaj Singh and Palwinder Kaur could not be said to be self-suffered. Dr. Kashmir Singh (PW1) specifically disclosed during cross examination that there is rare

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possibility of injury No.1 being that of self-suffered.

The next contention that the injury No.11 on the person of the complainant cannot be declared as grievous as this injury does not come under the definition of clause 7 or 8 of Section 320 IPC, also cannot be maintained. The dimensions of the injury No.11 on the person of the complainant is as under :-

> *"An incised wound 2 x ½ cms on vernal surface of right middle finger at the level of first inter-phalangeal joint. Tender and capsule cut and joint open with dislocation. Fresh blood oozing from the wound."*

Now coming to the question of sentence, the petitioners had given six injuries to Palwinder Kaur and 13 injuries to the complainant. They badly attacked the injured, therefore, longevity of the trail cannot be made a ground to release them on probation particularly when the penalty under Section 326 IPC is sentence for life or 10 years. However, this can be treated as mitigating circumstance for taking a lenient view in the matter.

Consequently, while dismissing the revision petition, the sentence passed against the petitioners is modified to the extent that it is reduced to six months. However, sentence of fine shall remain intact.

Learned Chief Judicial Magistrate, Amritsar is directed to initiate proceedings for taking the petitioners in custody for serving remaining part of their sentence.

July 18, 2007 **(A.N. Jindal)**
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